

KEVIN KERVENG TUNG, P.C.

Kevin K. Tung \*

Lu He

Wei Sun

Kenji Fukuda

Helen Wu

Andrew D. Solomon \*

*Attorneys at Law*

136-20 38<sup>th</sup> Avenue, Suite 3D

Flushing, New York 11354

(718) 939-4633

Facsimile (718) 939-4468

Song Chen

Shengming Shi

Ge Li

Jia Lei

Zheng Gao

Mengyao Wang

Cong Nie

Also Admitted In New Jersey

Writer's E-Mail:

ktung@kktlawfirm.com

April 30, 2014

Honorable Roslynn R. Mauskopf  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: Widjaja et. al. v. Kang Yue USA Corporation et. al.  
Civil Action No.: 09-cv-02089-RRM-CLP

Dear Hon. Mauskopf:

We are writing in response to plaintiff's letter dated April 25, 2014. We will address damages sought in each Section by the plaintiffs.

A. Tip Credit Damages

In this Section, the plaintiffs are seeking damages in the difference in the amount of \$2.50 between the minimum wage of \$7.15 and the base wage in the amount of \$4.65 paid by the defendant over the periods of time all the plaintiffs worked at the defendant's restaurant. The total amount sought by the plaintiffs is \$5,598.75. Adding FLSA and NYLL liquidated damages to the original amount, the total amount becomes \$12,597.18.

This damage shall not be allowed for the very simple reason. This court in the Decision dated September 26, 2011 never ruled that the tips on top of the base salary received by the plaintiffs shall not be counted toward the calculations of the minimum wages actually received by the plaintiffs.

The decision disallowed the defendant to retain part of the tips for credit card processing fees and tax withholdings and disallowed tip sharing with sushi chef Yeh. In fact, all of the plaintiffs testified during their respective depositions that they did receive tips on top of base wages of \$4.65 per hour. Most of the times, the tips were over one hundred dollars per day per one employee. The relevant pages of the depositions are annexed herewith as Exhibit "A".

By allowing the plaintiffs to recover under this section will create a situation that the plaintiffs receive a double recovery, because plaintiffs sought the disallowances in later sections of the damages calculations. In another words, if the plaintiffs recover their damages for the tips that were retained by the defendant and the tips shared by the sushi chef, plus federal and state liquidated damages, plaintiffs' claims are fully compensated.

B. Tip Retention Damages

In this section the plaintiffs are seeking the total 11.5% tips that were not allowed to be retained by the Court. This 11.5% consists of 3.85% for credit card processing expense and 7.65% for withholding taxes. The total amount was \$749.86 for withholding taxes and \$334.90 for credit card processing fees. The plaintiffs have already conceded to this calculations made by the defendant in the prior letters. (Exhibit "B") Therefore, before adding liquidated damages, the total basic damages should be \$1,084.76. (Exhibit "C")

After adding federal and state liquidated damages, the total damages should be \$2,440.71. (FLSA:  $\$1,084.76 \times 100\% = \$1,084.76$ , NYLL:  $\$1,084.76 \times 25\% = 271.19$ , Total Damages:  $\$1,084.76 + 1,084.76 + 271.19 = \$2,440.71$ )

Defendant does not dispute the damage sought by the plaintiff for sharing tips with sushi chef Yeh in the amount of \$1,443.75 in Section B(iii).

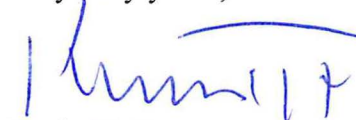
Therefore, the total damages in Section be should be  $\$2,440.71 + \$1,443.75 = 3,884.46$ . This calculation does not even take into consideration that the defendant did provide credit card fees application to the plaintiff, which would allow the defendant to deduct 3.85% credit card processing fees. (Exhibit "D")

C. FICA Deductions

The damages sought by the plaintiffs in this Section shall not be allowed, because the same damages have been included in Section B calculation. The 7.65% deductions have been included in the calculation in Section B.

For the foregoing reasons, the total damages of \$3,884.46 shall be awarded to the plaintiffs in this action. The defendant agrees to offer \$4,000 to settle the claims in this action to avoid a trial on the calculations of the damages.

Very truly yours,



Kevin K. Tung

**Exhibit “A ”**

1  
2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF NEW YORK

4 -----X  
5 JOHANES WIDJAJA, ERNIE NG, MIN JOONGKIN  
6 KIM, and AMPRI GUNARDI,

7 PLAINTIFFS,

8 -against-

9 Case No:  
10 09-2089

11 KANG YUE USA CORPORATION d/b/a MoCA ASIAN  
12 BISTRO, and JOHNSON CHEN,

13 DEFENDANTS.  
14 -----X

15 DATE: June 3, 2010

16 TIME: 2:43 p.m.

17 EXAMINATION BEFORE TRIAL of the  
18 Plaintiff, AMPRI GUNARDI, taken by the  
19 Defendant, pursuant to a Court Order and to  
20 the Federal Rules of Civil Procedure, held  
21 at the offices of KEVIN KERVENG TUNG, P.C.,  
22 38-21 Main Street, Flushing, New York  
23 11354, before Melody Garcia, a Notary  
24 Public of the State of New York.  
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A P P E A R A N C E S:

JOSEPH & HERZFELD, LLP.  
Attorneys for Plaintiffs  
JOHANES WIDJAJA, ERNIE NG,  
MIN JOONGKIN KIM and  
AMPRI GUNARDI  
757 Third Avenue, 25th Floor  
New York, New York 10017  
BY: D. MAIMON KIRSCHENBAUM, ESQ.

KEVIN KERVENG TUNG, P.C.  
Attorney for Defendants  
KANG YUE USA CORPORATION  
d/b/a MoCA ASIAN BISTRO  
and JOHNSON CHEN  
38-21 Main Street, Suite 3D  
Flushing, New York 11354

ALSO PRESENT:

Johanes Widjaja  
Johnson Chen  
Sunny Chen  
Lu He, sitting-in

\* \* \*

1 A. GUNARDI

2 understanding of that money? What was your  
3 understanding?

4 A. That's my hours, yeah.

5 Q. That's the basic --

6 A. Basic salary.

7 Q. -- MoCa was paying you?

8 A. Yes, minus 7.65 percent. They  
9 write it down.

10 Q. How much do they pay you, the  
11 gross salary, I mean the gross amount, how  
12 much do they pay you per hour?

13 A. Four sixty-five per hour.

14 Q. Four sixty-five per hour?

15 A. Yes, minus 7.65 percent.

16 Q. Tax?

17 A. I don't know that one is for  
18 tax or not. I don't know. That's what  
19 they told him.

20 Q. That's what they told you?

21 A. Yeah.

22 Q. Other than the base salary that  
23 you received from MoCa, do you receive  
24 anything else?

25 A. Tips.

←  
←  
} Tips

1 A. GUNARDI

2 Q. For all of those hours that you  
3 worked for MoCa on a weekly basis, how much  
4 tips do you receive on a weekly basis?

5 A. We can make, like, I think it's  
6 around eight, 80, 90 one night. If you  
7 worked the whole day, you can make 120,  
8 130.

} tips

9 Q. All day?

10 A. The whole day, lunch and  
11 dinner, I mean.

12 Q. For the day that you had to  
13 work for lunch and dinner, how many hours  
14 do you put in?

15 A. The whole day, I think more  
16 than 10 hours. It's maybe 12 hours.

17 Q. It's 10 to 12 hours?

18 A. Yes. Sometimes we close at  
19 11:00, right? The boss has some party. We  
20 have to take care of them, like, to 12:00.

21 Q. For a typical evening, how many  
22 hours do you have to put in to work for  
23 MoCa?

24 A. Typical what?

25 Q. You said you serve dinner.

1  
2 UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

3 -----X  
4 JOHANES WIDJAJA, ERNIE NG, MIN JOONGKIN  
KIM, and AMPRI GUNARDI,

5  
6 PLAINTIFFS,

7 -against-

Case No:  
09-2089

8  
9  
10 KANG YUE USA CORPORATION d/b/a MoCA ASIAN  
BISTRO, and JOHNSON CHEN,

11 DEFENDANTS.  
12 -----X

13 DATE: June 3, 2010

14 TIME: 2:24 p.m.

15  
16 EXAMINATION BEFORE TRIAL of the  
17 Plaintiff, JOHANES WIDJAJA, taken by the  
18 Defendant, pursuant to a Court Order and to  
19 the Federal Rules of Civil Procedure, held  
20 at the offices of KEVIN KERVENG TUNG, P.C.,  
21 38-21 Main Street, Flushing, New York  
22 11354, before Melody Garcia, a Notary  
23 Public of the State of New York.  
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A P P E A R A N C E S:

JOSEPH & HERZFELD, LLP.  
Attorneys for Plaintiffs  
JOHANES WIDJAJA, ERNIE NG,  
MIN JOONGKIN KIM and  
AMPRI GUNARDI,  
757 Third Avenue, 25th Floor  
New York, New York 10017  
BY: D. MAIMON KIRSCHENBAUM, ESQ.

KEVIN KERVENG TUNG, P.C.  
Attorney for Defendants  
KANG YUE USA CORPORATION  
d/b/a MoCA ASIAN BISTRO  
and JOHNSON CHEN  
38-21 Main Street, Suite 3D  
Flushing, New York 11354

ALSO PRESENT:

Ampri Gunardi  
Johnson Chen  
Sunny Chen  
Lu He - sitting-in

\* \* \*

1 J. WIDJAJA

2 A. In the first week, he paid by  
3 the -- not by the hour. They paid like  
4 \$700 per week for me.

5 Q. \$700 per week for the first  
6 week?

7 A. For the first open.

8 Q. First open week?

9 A. Yeah, after that it goes to  
10 \$4.60 per hour.

11 Q. \$4.60 per hour?

12 A. Yes, plus tip.

13 Q. You worked there six days,  
14 right?

15 A. Yes.

16 Q. Which day is your off day?

17 A. Sunday.

18 Q. How much tips do you receive on  
19 a typical day? First of all, if you can  
20 answer, does that vary from Monday through  
21 Saturday?

22 A. You asked me by the week,  
23 right?

24 Q. Well, let's go by day.

25 A. It's, like, Monday to

} Tips

1 J. WIDJAJA

2 Wednesday. If I work, like four shifts,  
3 that means lunch and dinner. I will earn  
4 about \$100 to \$120.

} tips

5 Q. That's from lunch to dinner,  
6 right?

7 A. Yeah.

8 Q. And that a typical 10 to 12  
9 hours work for you?

10 A. It's my Monday to Wednesday.

11 Q. How much do you make on tips on  
12 Thursday?

13 A. 130 to 150.

14 Q. For Friday?

15 A. Friday and Saturday, I can make  
16 like \$160.

17 Q. Tips?

18 A. Yes.

19 Q. All of those days you work  
20 about 10 to 12 hours, like you said before,  
21 right?

22 A. Yes.

23 Q. When you're coming to work, you  
24 had to sign in, you had to sign out on a  
25 computer, right?

1  
2 UNITED STATES DISTRICT COURT  
3 EASTERN DISTRICT OF NEW YORK

4 -----X  
5 JOHANES WIDJAJA, ERNIE NG, MIN JOONGKIN  
6 KIM, and AMPRI GUNARDI,

7  
8 PLAINTIFFS,

9 -against-

10 Case No:  
11 09-2089

12 KANG YUE USA CORPORATION d/b/a MoCA ASIAN  
13 BISTRO, and JOHNSON CHEN,

14 DEFENDANTS.  
15 -----X

16 DATE: June 3, 2010

17 TIME: 1:44 p.m.

18 EXAMINATION BEFORE TRIAL of the  
19 Witness, VICTOR UTAMA, taken by the  
20 Defendant, pursuant to a Court Order and to  
21 the Federal Rules of Civil Procedure, held  
22 at the offices of KEVIN KERVENG TUNG, P.C.,  
23 38-21 Main Street, Flushing, New York  
24 11354, before Melody Garcia, a Notary  
25 Public of the State of New York.



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A P P E A R A N C E S:

JOSEPH & HERZFELD, LLP.  
Attorneys for Plaintiffs  
JOHANES WIDJAJA, ERNIE NG,  
MIN JOONGKIN KIM and  
AMPRI GUNARDI  
757 Third Avenue, 25th Floor  
New York, New York 10017  
BY: D. MAIMON KIRSCHENBAUM, ESQ.

KEVIN KERVENG TUNG, P.C.  
Attorney for Defendants  
KANG YUE USA CORPORATION  
d/b/a MoCA ASIAN BISTRO  
and JOHNSON CHEN  
38-21 Main Street, Suite 3D  
Flushing, New York 11354

ALSO PRESENT:

Johanes Widjaja  
Ampri Gunardi  
Johnson Chen  
Sunny Chen  
Lu He - sitting-in

\* \* \*

1 V. UTAMA

2 A. No.

3 Q. What do you mean by 4.65 per  
4 hour?

5 A. That's according to the law,  
6 but when I get the money, it's deducted by  
7 7.65 percent.

8 Q. When you say "\$4.65," is that  
9 the net amount you're taking home or those  
10 are the gross amount they pay you?

11 A. That's before taking tax.

12 Q. Before taking tax?

13 A. Yeah.

14 Q. MoCa was paying you \$4.62 -- 65  
15 cents an hour?

16 A. Yes.

17 Q. Before any taxes were reduced?

18 A. Yes.

19 Q. And other than the base salary,  
20 \$4.65 that you received, do you receive any  
21 another compensations such as tips?

22 A. Yes.

23 Q. On the average, how much did  
24 you receive as tips per hour on the  
25 average?

tips

1 V. UTAMA

2 MR. KIRSCHENBAUM: Objection.

3 Q. If you know.

4 MR. KIRSCHENBAUM: That's a  
5 strange question.

6 A. No, I can't recall.

7 Q. On a particular day, how much  
8 did you receive as your tip? On a typical  
9 day, not very busy, not very slow down.

10 A. \$50.

11 Q. \$50 per day; is that per day,  
12 per your work day?

13 A. It depends on the day;  
14 sometimes \$50, yeah.

15 Q. That's a regular day, not too  
16 busy, not --

17 A. Monday through Wednesday.

18 Q. Monday through Wednesday you  
19 can possibly receive \$50 per day, right?

20 A. (Nodding). Yes.

21 Q. Then for Thursday and Friday,  
22 Saturday, Sunday, would those days make any  
23 difference?

24 A. Yes.

25 Q. Let's say, how much on a

1 V. UTAMA

2 typical Thursday did you receive tips?

3 A. I never worked on Thursday.

4 Q. What about Friday?

5 A. Friday, approximately \$100.

6 MR. WIDJAJA: More than that.

7 A. \$100.

8 Q. For Friday?

9 A. At first.

10 Q. Tips?

11 A. Yes.

12 Q. What about Saturday?

13 A. Saturday about 130.

14 Q. What about Sunday?

15 A. Sunday, about 100, the whole  
16 day.

17 Q. Now, for those days that you  
18 worked at MoCa, do you have a particular  
19 schedule, work schedule per week?

20 A. You mean fixed schedule?

21 Q. Yes.

22 A. No, sometimes changes.

23 Q. What is the longest hours that  
24 you had to work in a day, particular day  
25 with MoCa?

tips



**Exhibit “B”**

Case 1:09-cv-02089-RRM-CLP Document 60 Filed 02/13/12 Page 1 of 3 PageID #: 558

**JOSEPH, HERZFELD, HESTER & KIRSCHENBAUM LLP**  
Attorneys at Law

Charles Joseph  
Diane Hester  
D. Maimon Kirschenbaum  
Matthew D. Kadushin  
Amy Zobel  
Michael D. Palmer  
Denise A. Schulman

233 Broadway, 5th Floor  
New York, NY 10279  
Phone (212) 688-5640  
Fax (212) 688-2548  
www.jhlpl.com

Counsel:  
Michael DiChiara\*  
\*Also admitted in NJ & MA

February 13, 2012

**VIA ECF**

Honorable Roslynn R. Mauskopf  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

**Re: Widjaja et al. v. Kang Yue USA Corporation et al.**  
**Civil Action No.: 09-cv-02089-RRM-CLP**

Dear Judge Mauskopf,

We represent Plaintiffs in the above-captioned matter and we write respectfully to request a conference with the Court and the parties. The purpose of our request is clarification of this Court's Order of September 26, 2011 granting summary judgment in favor of Plaintiffs. While Plaintiffs see the relief set forth in the Order as perfectly clear, it is apparent that Defendants do not understand the Order. In the pre-trial order submitted after the Court's Order (attached as "Exhibit A"), Defendants ignore the Court's Order almost in its entirety. We are confident that a conference will result in complete agreement between the parties as to damages ending all unresolved matters in the case.<sup>1</sup>

The Court ordered that Defendants pay Plaintiffs damages for the following violations:<sup>2</sup>

1. the tip credit that Defendants wrongly applied to their minimum wage, *i.e.*, the difference between the federal minimum wage and the tip credit minimum wage;<sup>3</sup>

<sup>1</sup> While we are aware that the Court re-assigned the case to the Magistrate Judge for all pre-trial issues, since the issues we here address involve the interpretation of this Court's order, we believe it would be appropriate to raise this matter before Your Honor.

<sup>2</sup> Plaintiffs' list of damages in the Proposed Pre-Trial Order contains a few minor errors. We therefore refer the Court to the accurate list set forth herein.

2. the full 11.5% that Defendants withheld from Plaintiffs' tips through August 2009;<sup>4</sup>
3. the full 7.65% that Defendants withheld from Plaintiffs wages through August 2009;<sup>5</sup>
4. the amount that Mr. Utama was forced to share with Sushi Chef Alex Yeh between August 2009 and December 2009;<sup>6</sup>
5. liquidated damages under the FLSA and New York Labor Law, *i.e.*, double damages under the FLSA and 25% under New York Labor Law.<sup>7</sup>

Plaintiffs' portion of Section 5 of the Joint Proposed Pre-Trial Order lays out the precise breakdown of these damages consistent with this Court's Order. In their submission, however, Defendants' blithely omit the bulk of the relief ordered. This chart sets forth the relief the Court awarded as compared to Defendants' calculations:

Damages Awarded	Defendants Proposed Pre-Trial Order
Tip Credit Damages	Omitted
11.5% of withheld tips	Defendants only accounted for 3.85% of withheld tips
7.65% of withheld wages	Acknowledged
Amount Mr. Utama was forced to share Sushi Chef Yeh	Omitted
Liquidated damages under the FLSA and New York Labor Law penalties	Omitted

Defendants' refusal to acknowledge the relief set forth in the Order is the only factor preventing a complete and quick pre-trial resolution. Most significantly, the majority of the damages in this case is attributable to the tip credit and liquidated damages which the court unequivocally awarded Plaintiffs. The remaining outstanding damages are minor and Plaintiff would likely concede to Defendants calculations on these matters so that there would be nothing left for a finder of fact to decide. Accordingly, we respectfully

*Pl conceded to  
Δ's calculation*

<sup>3</sup> *Widjaja v. Kang Yue USA Corp.*, 2011 U.S. Dist. LEXIS 109007 (E.D.N.Y. Sept. 26, 2011), at \*23 ("Therefore, the Court finds that defendants' retention of plaintiffs' tips in the guise of "withholding" precludes defendants from invoking the "tip credit," and therefore violates the FLSA and New York Labor Law as a matter of law.") and at \*17 ("Therefore, the Court finds that Yeh is an "employer" for purposes of New York Labor Law and the FLSA, and, therefore, defendants violated the tip credit and minimum wage provisions of the FLSA and New York Labor Law when they required Utama to share tips with Yeh for the period following August 10, 2009.").

<sup>4</sup> *Id.* at \*6 ("It is undisputed that defendants did not forward the 7.65% deductions to the Internal Revenue Service...") and at \*28 ("Therefore, the Court finds that defendants' retention of 3.85% of plaintiffs' credit card tips was improper under the FLSA and New York Labor Law because defendants have failed to adduce more than a scintilla of evidence supporting their entitlement to the deduction as reasonably necessary to compensate for credit card processing fees.").

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at \*16 ("Here, defendants' undisputed testimony establishes that Yeh is an "employer," such that the sharing of tips with him violated the FLSA and New York Labor Law.").

<sup>7</sup> *Id.* at \*32 ("Accordingly, the Court finds that Plaintiffs are entitled to liquidated damages under the FLSA and New York Labor Law...").

Case 1:09-cv-02089-RRM-CLP Document 60 Filed 02/13/12 Page 3 of 3 PageID #: 560

request that the Court schedule a conference where any perceived ambiguities relating to the Order can be clarified.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Maimon Kirschenbaum', with a stylized, cursive script.

D. Maimon Kirschenbaum

(Enclosures)

Cc: Kevin K. Tung, Esq



**Exhibit “C”**

Name	Time Pired	Total Hours	Total Deduction (7.65%)(FICA)
Victor Utama	09/02/2008 - 9/6/2009	1565	\$533.62
Johanes	09/02/2008-1/11/2009	514.5	\$159.94
Ampri Gunardi	9/22/2008 - 11/23/2008	160	\$56.30
TOTAL			\$749.86

## Kang Yue USA Corp.

### Merchant Account Fee

Month	Extra Deducted Amount		
	Victor Utama 9/2/08-9/6/09	Johanes 9/2/08-1/11/09	Ampri Gunardi 9/22/08-11/23/08
Sept. '08	\$ 15.25	\$ 15.25	\$ 15.25
Oct. '08	\$ 19.08	\$ 19.08	\$ 19.08
Nov. '08	\$ 18.77	\$ 18.77	\$ 18.77
Dec. '08	\$ 18.86	\$ 18.86	
Jan. '09	\$ 11.73	\$ 11.73	
Feb. '09	\$ 15.39		
Mar. '09	\$ 17.89		
Apr. '09	\$ 14.40		
May '09	\$ 14.61		
June '09	\$ 14.91		
July '09	\$ 10.66		
Aug. '09	\$ 15.29		
Sept. '09	\$ 11.28		
	<b>\$ 198.11</b>	<b>\$ 83.69</b>	<b>\$ 53.10</b>
	<b>\$</b>		<b>334.90</b>

## Kang Yue USA Corp.

### Merchant Account Fee

Month	Total Deposits	Total Charges	Fees %	Total Tips Amount	Merchant A/C Fee	Total Deducted Amnt from Tips (3.85%; 9 persons)	Extra Deducted Amount		
							Victor Utama 9/2/08-9/6/09	Johanes 9/2/08-1/11/09	Ampri Gunardi 9/22/08-11/23/08
pt. '08	\$ 128,635.89	\$ 3,840.21	2.99%	\$ 15,870.86	\$ 473.80	\$ 611.03	\$ 15.25	\$ 15.25	\$ 15.25
t. '08	\$ 123,742.72	\$ 3,466.92	2.80%	\$ 16,380.38	\$ 458.93	\$ 630.64	\$ 19.08	\$ 19.08	\$ 19.08
v. '08	\$ 120,730.49	\$ 3,237.53	2.68%	\$ 14,461.00	\$ 387.79	\$ 556.75	\$ 18.77	\$ 18.77	\$ 18.77
c. '08	\$ 105,821.83	\$ 2,694.16	2.55%	\$ 13,015.00	\$ 331.35	\$ 501.08	\$ 18.86	\$ 18.86	
l. '09	\$ 109,187.55	\$ 3,373.92	3.09%	\$ 13,894.00	\$ 429.33	\$ 534.92	\$ 11.73	\$ 11.73	
b. '09	\$ 100,777.77	\$ 2,679.30	2.66%	\$ 11,625.00	\$ 309.06	\$ 447.56	\$ 15.39		
ir. '09	\$ 113,036.05	\$ 2,878.68	2.55%	\$ 12,354.00	\$ 314.62	\$ 475.63	\$ 17.89		
r. '09	\$ 99,329.25	\$ 2,725.25	2.74%	\$ 11,717.00	\$ 321.47	\$ 451.10	\$ 14.40		
iy '09	\$ 110,748.21	\$ 3,253.19	2.94%	\$ 14,414.00	\$ 423.41	\$ 554.94	\$ 14.61		
re '09	\$ 99,351.09	\$ 2,613.21	2.63%	\$ 10,998.00	\$ 289.28	\$ 423.42	\$ 14.91		
y '09	\$ 87,024.17	\$ 2,584.60	2.97%	\$ 10,900.00	\$ 323.73	\$ 419.65	\$ 10.66		
g. '09	\$ 108,026.19	\$ 2,925.91	2.71%	\$ 12,052.00	\$ 326.43	\$ 464.00	\$ 15.29		
pt. '09	\$ 82,747.62	\$ 2,324.77	2.81%	\$ 9,753.00	\$ 274.01	\$ 375.49	\$ 11.28		
Total =		\$ 38,597.65	2.78%	\$ 167,434.24	\$ 4,663.21	\$ 6,446.22	\$ 198.11	\$ 83.69	\$ 53.10
Total =							\$		334.90

**Exhibit “D”**



KEVIN KERVENG TUNG, P.C.

Kevin K. Tung \*  
Mingli Chen  
Chunyang Zhang  
Kenji Fukuda  
Helen Wu  
Wei Sun  
Lu He

*Attorneys at Law*

136-20 38<sup>th</sup> Avenue, Suite 3D  
Flushing, New York 11354  
(718) 939-4633  
Facsimile (718) 939-4468

New Jersey Office  
2 Executive Drive, Suite 850  
Fort Lee, New Jersey 07024  
(201) 224-8222

Facsimile (201) 224-9122

Song Chen  
Wen-Hsien Cheng

Reply To New York Office

Writer's E-Mail:  
ktung@kktlawfirm.com

\*Also Admitted In New Jersey

October 19, 2011

D. Maimon Kirschenbaum Esq.  
Jospeh, Herzfeld, Hester & Kirschenbaum, LLP.  
757 Third Avenue, 25<sup>th</sup> Floor  
New York, NY 10017

Re: Johanes Widjaja et al. v. Kang Yue USA Corporation et al.  
Case Number: 1:09-cv-02089-RRM-CLP

Dear Mr. Kirschenbaum:

Pleased be advised that we have received additional discovery materials from our client. The following are enclosed with this letter.

- Merchant Processing Application and Agreement (4 pages)
- About Merchant's Business (1 page)
- Merchant Processing Credit Addendum (1 page)

Thank you very much.

Very truly yours,



Ruofei Xiang  
Law Clerk

**MERCHANT PROCESSING APPLICATION AND AGREEMENT** (Page 1 of 4)**COMPLETE SECTIONS (1-13)**Merchant # \_\_\_\_\_ Loc. 1 of 1

TeleCheck Subscriber #: \_\_\_\_\_ Add'l TeleCheck Product Subscriber #: \_\_\_\_\_

**(1) TELL US ABOUT YOUR BUSINESS**

Client (Your Business LEGAL Name): KANG YUE USA CORP		Store #: 1	
<input type="checkbox"/> Same as Legal Name or provide: DBA / Outlet Name: MOCA ASIAN BISTRO		First / Last Contact Name: JOHNSON CHEN/ LEO CHENG	
(No P.O. Box) Address: 107-18 70 ROAD	Suite #:	City: FOREST HILLS	State: NY Zip Code: 11375
Your Business Phone: (718) 268-3333	<input checked="" type="checkbox"/> Same as Business Phone or Merchant's Customer Service Phone:		
Your Fax Phone: (718) 268-3332	Select One for Retrieval Requests: <input checked="" type="checkbox"/> (02) Dedicated 24 Hour Fax <input type="checkbox"/> (03) No fax; mail		

**(2) MC / VISA / DISCOVER® NETWORK / AMERICAN EXPRESS® FULL SERVICE**

Your Total Cash and Credit Sales (For All Outlets)	\$ 1,000,000.00	Estimated MC/Visa Average Ticket/Sales Amount:	\$ 100.00
Total Annual MC/Visa Volume: (For All Outlets)	\$ 1,000,000.00	Estimated Discover Network Average Ticket for this Outlet:	\$ 100.00
Total Annual Discover Network Volume: (For All Outlets)	\$ 10,000.00	Estimated American Express Average Ticket for this Outlet:	\$
Total Annual American Express Volume: (For All Outlets)	\$	Annual MC/Visa Volume for this Outlet: (For Multiple Outlets Only)	\$
		Est. Discover Network Annual Sales Vol. for this Outlet: (For Multiple Outlets Only)	\$
		Est. American Express Annual Sales Vol. for this Outlet: (For Multiple Outlets Only)	\$

**(3) TELECHECK PRODUCTS AND SERVICES**

<input type="checkbox"/> ECA® Warranty	<input type="checkbox"/> ECA Verification w/ TRS Collections	<input type="checkbox"/> ECA Verification	<input type="checkbox"/> TRS Collections See TRS Service and Recovery Rate Section
<input type="checkbox"/> LockBox Warranty	<input type="checkbox"/> LockBox Verification	<input type="checkbox"/> Check Cashing Warranty	<input type="checkbox"/> Check Cashing Verification <input type="checkbox"/> Other: _____
<input type="checkbox"/> Paper Warranty	<input type="checkbox"/> Paper Verification	<input type="checkbox"/> COD Warranty	<input type="checkbox"/> Mail Order Warranty Existing Subscriber #: _____

**(4) ENTITLEMENTS**

☒ MC / Visa ☒ Discover Network Full Processing

☐ Voyager Fleet\* or Existing Voyager Acct #: \_\_\_\_\_ Annual Voyager Volume: \$ \_\_\_\_\_ ☐ MC Fleet ☐ Wright Express or Existing WEX Acct #: \_\_\_\_\_

\*Tax exempt Voyager Cards accepted: ☐ Yes ☐ No

☐ Non-Lic. JCB (EDC) \_\_\_\_\_ (Existing Account #) \_\_\_\_\_ or ☐ JCB License 2809009901

☐ American Express Full Service/EDC or ☒ Existing SE # \_\_\_\_\_ Check one: ☐ Split Dial ☒ Single Settle ☐ EDC ☐ PIP ☐ Reverse PIP

American Express Cap # \_\_\_\_\_ Franchise Name: \_\_\_\_\_ Other: \_\_\_\_\_ SE #: \_\_\_\_\_

☐ Debit Package 84014239 ☐ EBT FNS # (XREF): \_\_\_\_\_ ☐ \*\*FDMS Gift Card ☐ \*\*FDMS Loyalty Solutions

\*\* A separate Setup Form is required.

**(5) PROVIDE MORE BUSINESS DATA**

State Incorp. NY Month/Yr. Started: 10/2007 ☐ Sole Ownership ☐ Partnership ☐ Non Profit/Tax Exempt ☐ Public Corp. ☒ Private Corp. ☐ L.L.C. ☐ Gov't.

Mag Swipe 80 % + Keyed Manually 20 % = 100% Product/Services You Sell: EATING PLACES/RESTAURANTS

POS Card Present (MAG Swipe and/or Manual Imprint) 80 % + Mail Order/Direct Marketing 0 % + Phone Order 20 % + Internet 0 % = 100%

Do you use any third party to store, process or transmit cardholder data? ☐ Yes ☒ No (Examples include, but not limited to web hosting companies, Electronic Data Capture, Loyalty programs)

If yes, give name/address: \_\_\_\_\_

Please identify any Software used for storing, transmitting, or processing Card Transactions or Authorization Requests: \_\_\_\_\_

Check one: TIN Type: ☒ EIN (Fed Tax ID #) ☐ SSN TIN ID #: 261241725 D & B #: \_\_\_\_\_ No. of Employees: 10**(6) DESCRIBE EQUIPMENT DETAILS**

Network: ☐ ( ) CARD net® ☒ ( ) Nashville ☐ ( ) BuyPass ☐ Other: \_\_\_\_\_ Specify Security Code: ( )

Rental * Purchase Customer-Owned Lease (circle one)	QTY	IP	Equipment Type (i.e. Terminal / VAR / Internet)	Retail * Restaurant * MOTO / Internet Lodging * Supermarket * Car Rental Quick Service Restaurant * Petr	Model Code and Name	Unit Price w/o Tax	For Customer-Owned Equipment Track / Version / Serial #
48 Month Lease	4	<input type="checkbox"/>	TERM	RESTAURANT	FD100 TERMINAL	29.94	
		<input type="checkbox"/>					
		<input type="checkbox"/>					

**NOTE: Any Special Instructions must be included on About Merchant's Business Page.**

Installation/Training: ☐ MAG/MIG to Train (receive training via phone dial 1-800-558-7101 Opt. #1, M-F 8:00 am - 10:00 pm EST and Sat. 10:00 am - 7:00 pm EST)

☐ Sales Rep. to Train ☐ No Merchant Training ☒ In-House ☐ PACT (Check Training via phone 1-800-366-1054 7:00am - 6:30pm CT)

First/Last Contact Name: JOHNSON CHEN/ LEO CHENG Contact Phone #: (718) 268-3333 Best Time To Call 9:00 AM - 4:30 PM am/pmImprinter Purchase: ☒ Yes ☐ No If Yes \$ 50.00 x Qty: 2 = \$ 100.00 (w/o Tax) Wireless Provider: ☐ GPRS Cingular or ☐ Other: \_\_\_\_\_Check One: ☐ Gateway Solutions ☐ Dial Solutions ☐ YourPay ☐ EFSNET\*\*\* ☐ VSAT\*\*\* ☐ Frame ☐ Other: \_\_\_\_\_ ☐ IC Verify Serial # \_\_\_\_\_

VAR / Internet / Software: Name: \_\_\_\_\_ (Nashville Only: Product ID # \_\_\_\_\_ Vendor ID # \_\_\_\_\_)

NOTE: \*\*\*EFSNET Technical Contact: Name \_\_\_\_\_ E-Mail \_\_\_\_\_ Phone \_\_\_\_\_

\*\*\*Requires separate agreement between VSAT Provider prior to implementation of this telecommunications protocol.

LEASE COMPANY: (04) First Data Global Leasing	Lease Term: <u>48</u> Months	Annual Tax Handling Fee: \$ <u>10.20</u>
Total monthly lease charge: \$ <u>119.76</u> w/o taxes, late fees, or other charges that may apply -		
See Lease Agreement for details. This is a <b>NON-CANCELABLE</b> lease for the full term indicated.		

**(7) PROVIDE YOUR OWNER INFORMATION**

Owner / Partner / Officer Name: JOHNSON CHEN	D.O.B: 03/23/1967	Social Security #: 065-82-9058	Home Phone: (917) 882-9875	% of Ownership: 0
Home Address: 5 PEARL STREET		City: INWOOD	State: NY	Zip: 11096
Owner / Partner / Officer Name:	D.O.B:	Social Security #:	Home Phone:	% of Ownership: 0
Home Address:		City:	State:	Zip:

Client's Initials JC



**MERCHANT PROCESSING APPLICATION AND AGREEMENT (Page 2 of 4)**

RSAWT1104

**(8) FLAT RATE / IC PLUS / TIER PRICING SCHEDULE**

RSAWTCorpFee1104

DBA Name: MOCA ASIAN BISTROPricing Type: 002Interchange Schedule Version:  
RSA.MVD.S08.1.3T 3TierLoc. 1 of 1

Start-Up Fees (One-Time Charge)		
<b>Non-Taxable Fees:</b>		
Application Fee	(247)	\$ <u>0.00</u>
Reprogramming Fee	(31A)	\$ <u>0.00</u>
Debit Set-up Fee	(31B)	\$ _____
Misc. Fee	(31J)	\$ _____
*Equipment Purchase	(ACH)	\$ <u>100.00</u>
Other:	( )	\$ _____
<b>Total Amount</b>		\$ <u>100.00</u> w/o tax

Billed Monthly Fees (If Applicable)		
Service Fee	(335)	\$ <u>0.00</u>
ACH Reject Fee	(401)	\$ <u>25.00</u>
Minimum		
Processing Fee	(954)	\$ <u>0.00</u>
Wireless Access Fee	(399)	
FEE PER TID	# OF TIDS	TOTAL
\$ _____ x _____		= \$ _____
ClientLine®	(32R)	\$ <u>0.00</u>
Paper Statement Fee	(323)	\$ <u>5.00</u>
Premium Equipment Service Program		
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (per location)	(32U)	\$ _____
Other:		\$ _____
Supplies:		

Billed Annual Fees (October)	
Compliance Service Fee	(32Q) \$ <u>94.75</u>

PIN Debit	
(Must complete only one of the following fees if PIN Debit is selected)	
Bundled PIN Debit	(191, Key 0-593) \$ _____
OR	
Unbundled PIN Debit	(018, Key 0-590, Key 0-593) \$ _____
(plus the applicable network fees)	

Internet	
<b>Start-Up Fees</b>	
YourPay Set-up Fee (31X)	
FEE PER TID	# OF TIDS
\$ _____ x _____	= \$ _____
Internet Set-up Fee (30R)	
FEE PER TID	# OF TIDS
\$ _____ x _____	= \$ _____
<b>Billed Monthly Fees</b>	
YourPay (31Z)	
FEE PER TID	# OF TIDS
\$ _____ x _____	= \$ _____
Internet Service Fee (394)	
FEE PER TID	# OF TIDS
\$ _____ x _____	= \$ _____
<b>Trans/Other Fees</b>	
Internet/YourPay	
MC, V, Amex, Dis, JCB	
(03R, 04R, 06I, 07I, 08D, 435)	\$ _____

Entitlements	
AUTHORIZATION	CAPTURE
American Express (068)	
(Non-Full Service)	\$ <u>0.25</u>
JCB (10M)	\$ _____
JCB License (754)	% _____

Discount Fees (Based on Gross Transaction Volume)							
Accept <u>all</u> MasterCard, Visa and Discover Network and American Express® Transactions (presumed, unless any selections below are checked)							
<b>MasterCard Acceptance</b>			<b>Visa Acceptance</b>				
<input type="checkbox"/> Accept MC Credit transactions <u>only</u>			<input type="checkbox"/> Accept Visa Credit transactions <u>only</u>				
<input type="checkbox"/> Accept MC Non-PIN Debit transactions <u>only</u>			<input type="checkbox"/> Accept Visa Non-PIN Debit trans. <u>only</u>				
<b>Discover Network Acceptance</b>			<b>American Express Acceptance</b>				
<input type="checkbox"/> Accept Discover Network Credit transactions <u>only</u>			<input type="checkbox"/> Accept American Express Credit transactions <u>only</u>				
<input type="checkbox"/> Accept Discover Network Non-PIN Debit trans. <u>only</u>							
See Section 1.9 of the Program Guide for details regarding limited acceptance. You are responsible for distinguishing Credit from Non-PIN Debit Cards. Even if you have agreed to limit your acceptance of certain cards as outlined above, you must continue to accept all foreign issued cards, whether Credit or Non-PIN Debit. If you agree to limit your acceptance to a particular type of card and, whether intentionally or in error, accept another type of transaction, the resulting transaction will downgrade to the highest cost interchange plus the applicable Non-Qualified Surcharge (See Section 18.1 of the Program Guide).							
Pricing Method: (Select One)	MC / Visa Discover Network 2-Tier	MC / Visa Discover Network 3-Tier	Transaction Fees (Applies to MC/Visa/Discover Network 2-Tier and MC/Visa/Discover Network 3-Tier ONLY)	MC/Visa/Discover Network/American Express Discount Rate	MC / Visa / Discover Network IC Pass Thru		
<b>QUALIFIED DISCOUNT RATES</b>							
MC Credit Discount Rate (800)	_____ %	1.68 %	MC/VI Qual Credit Trans Fee (001, 002, 005, 006) \$ <u>0.20</u>	_____ %	_____ %	You will be charged the applicable interchange rate from MasterCard (563), Visa (553), or Discover Network (529) plus a MasterCard Assessment Fee (273) of .0950%, a Visa Assessment Fee (274) of .0925%, or a Discover Network Assessment Fee (6AC) of .0925% plus any other fees indicated on this Service Fee Schedule.	
Visa Credit Discount Rate (804)	_____ %	1.68 %	Discover Qual Credit Trans Fee (015, 016) \$ <u>0.20</u>	_____ %	_____ %		
Discover Network Credit Discount Rate (170)	_____ %	1.68 %	MC/VI Qual Non-PIN Debit Trans Fee (130, 131, 134, 135) \$ <u>0.20</u>	_____ %	_____ %		
American Express** Credit Discount Rate (Key 0-570)	_____ %	_____ %	Discover Qual Non-PIN Debit Trans Fee (787, 788) \$ <u>0.20</u>	_____ %	_____ %		
MC Non-PIN Debit Discount Rate (850)	_____ %	1.45 %		_____ %	_____ %		
Visa Non-PIN Debit Discount Rate (854)	_____ %	1.45 %		_____ %	_____ %		
Discover Network Non-PIN Debit Discount Rate (964)	_____ %	1.45 %		_____ %	_____ %		
<b>MID-QUALIFIED DISCOUNT RATES (Does not apply to MC/Visa/Discover 2 Tier)</b>							
MC Credit Discount Rate (810)	_____ %	2.10 %	MC/VI Mid-Qual Credit Trans Fee (611, 612, 615, 616) \$ <u>0.20</u>	_____ %	_____ %		
Visa Credit Discount Rate (814)	_____ %	2.10 %	Discover Mid-Qual Credit Trans Fee (717, 718) \$ <u>0.20</u>	_____ %	_____ %		
Discover Network Credit Discount Rate (990)	_____ %	2.10 %	MC/VI Mid-Qual Non-PIN Debit Trans Fee (140, 141, 144, 145) \$ <u>0.20</u>	_____ %	_____ %		
MC Non-PIN Debit Discount Rate (870)	_____ %	2.10 %	Discover Mid-Qual Non-PIN Debit Trans Fee (791, 792) \$ <u>0.20</u>	_____ %	_____ %		
Visa Non-PIN Debit Discount Rate (874)	_____ %	2.10 %		_____ %	_____ %		
Discover Network Non-PIN Debit Discount Rate (968)	_____ %	2.10 %		_____ %	_____ %		
<b>NON-QUALIFIED DISCOUNT RATES</b>							
MC Credit Discount Rate (820)	_____ %	2.95 %	MC/VI Non-Qual Credit Trans Fee (621, 622, 625, 626) \$ <u>0.20</u>	_____ %	_____ %		
Visa Credit Discount Rate (824)	_____ %	2.95 %	Discover Non-Qual Credit Trans Fee (721, 722) \$ <u>0.20</u>	_____ %	_____ %		
Discover Network Credit Discount Rate (994)	_____ %	2.95 %	MC/VI Non-Qual Non-PIN Debit Trans Fee (150, 151, 154, 155) \$ <u>0.20</u>	_____ %	_____ %		
MC Non-PIN Debit Discount Rate (880)	_____ %	2.95 %	Discover Non-Qual Non-PIN Debit Trans Fee (795, 796) \$ <u>0.20</u>	_____ %	_____ %		
Visa Non-PIN Debit Discount Rate (864)	_____ %	2.95 %		_____ %	_____ %		
Discover Network Non-PIN Debit Discount Rate (978)	_____ %	2.95 %		_____ %	_____ %		
MC/Visa Authorization & Return Transaction Fees (10A, 10D) (002, 006) (131, 135)				\$ _____	\$ _____		
Discover Network Auth & Return Transaction Fee (10J, 016, 788)				\$ _____	\$ _____		
American Express Auth & Return Transaction Fee (10P)				\$ _____	\$ _____		
Non-Qualified Surcharge Fee (30D) (excluding interchange pass-through fees, see Section 18.1)			Applies to Non-Qualified MC, VI, Discover Network and American Express Credit and/or Non-PIN Debit Transactions.	_____ %	_____ %		

\*You will be charged the applicable State/City/Local Sales Tax

\*\*Retail merchants will be charged an additional 0.30% for non-swiped American Express transactions.

Client's Initials JC



**MERCHANT PROCESSING APPLICATION AND AGREEMENT (Page 3 of 4)**DBA Name: MOCA ASIAN BISTROLoc. 1 of 1**(8) FLAT RATE / IC PLUS / TIER PRICING SCHEDULE (Cont'd)**

Bypass Fees	
Datawire Micronode	<input type="checkbox"/> Yes <input type="checkbox"/> No
Datawire Micronode 960-AS Monthly Fee	(354) \$ _____ (each)
Authorization Fees	
Voyager (0D0, 0D1, 0DV)	\$ _____
WEX (0B0, 0B1, 0BV)	\$ _____
Other Payment Fees	
<b>Voyager</b>	
Sales Discount Rate (844)	_____ %
Credit Discount Rate (845)	_____ %

Other Fees	
Chargeback Fee	(205, 725, 20L) \$ 25.00
MC Cross Border Fee USD	(605) 0.50 %
Visa International Service Fee	(22A) 0.50 %
MC / Visa / Discover Network / American Express® Voice	(10B, 10E, 10K, 10Q) \$ 0.75
EBT	(18E, 18I, 02X, 18H) \$ _____
AVS	(405, 406, 407, 408) \$ 0.10
Discover Network AVS	(07A, 07B, 07C, 079) \$ 0.10
Batch Settlement Fee	(227) \$ 0.35
MC / Visa / Discover Network Access Fee	(505, 504, 526) \$ 0.0075
Other:	\$ _____

Note: See Part IV "Additional Important Information Page for Card Processing" in Section A.3 for early termination fees.



**TeleCheck Services, Inc.**  
P.O. Box 4514  
Houston, TX 77210-4514  
1-800-366-1054

**(9) TELECHECK RATES, SERVICE FEES, AND SET UP INFORMATION**

Set-Up Fees:

No. of Physical Locations: 1 1st Location: @ 150.00 Add'l Location(s): @ 100.00 ea. Total Set-Up Fee: \$ 150.00

TeleCheck Monthly POS Support Fee: \$ \_\_\_\_\_ (per Terminal/Per Month. TeleCheck Equip. Only) Total TeleCheck Monthly POS Support Fee: \$ \_\_\_\_\_

Check ALL TeleCheck Services that apply:	<input type="checkbox"/> ECA Warranty or <input type="checkbox"/> Paper Warranty	<input type="checkbox"/> ECA Verification w / TRS Collections (20V)	<input type="checkbox"/> ECA Verification or <input type="checkbox"/> Paper Verification	<input type="checkbox"/> LockBox Warranty	<input type="checkbox"/> LockBox Verification
Average Check Size	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Total Monthly Check / Call Volume	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Inquiry Rate	_____ %			_____ %	
Transaction Fee	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Advantage Billing	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
One Rate	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Monthly Minimum Fee	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Customer Request Operator Call / Voice Authorization Fee	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Monthly Processing / Statement Fee	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
December Risk Surcharge	_____ %			_____ %	
TRS Collections		See TRS Service and Recovery Rate Section	See TRS Service and Recovery Rate Section		
Warranty Maximum	<input type="checkbox"/> Face Amt. of Authorized Item or \$ _____			<input type="checkbox"/> Face Amt. of Authorized Item or \$ _____	
MICR Floor Limit					
Other:	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

Check ALL TeleCheck Services that apply:	<input type="checkbox"/> COD Warranty	<input type="checkbox"/> Mail Order Warranty	<input type="checkbox"/> Check Cashing Warranty	<input type="checkbox"/> Check Cashing Verification	<input type="checkbox"/> Other
Average Check Size	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Total Monthly Check / Call Volume	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Inquiry Rate	_____ %	_____ %	_____ %	_____ %	_____ %
Transaction Fee	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Advantage Billing	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
One Rate	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Monthly Minimum Fee	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Customer Request Operator Call / Voice Authorization Fee	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
Monthly Processing / Statement Fee	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____
December Risk Surcharge	_____ %	_____ %	_____ %		_____ %
TRS Collections					See TRS Service and Recovery Rate Section
Warranty Maximum	<input type="checkbox"/> Face Amt. of Authorized Item or \$ _____	<input type="checkbox"/> Face Amt. of Authorized Item or \$ _____	See Section 2.1(a) of Check Cashing Warranty Addendum		<input type="checkbox"/> Face Amt. of Authorized Item or \$ _____
MICR Floor Limit					
Other:	\$ _____	\$ _____	\$ _____	\$ _____	\$ _____

See TeleCheck / TRS Agreement for definitions and any additional fees.

Note: See Section 1.38 "Damages" of the TeleCheck / TRS Agreement for early termination fees / liquidated damages.

Client's Initials JC



**MERCHANT PROCESSING APPLICATION AND AGREEMENT (Page 4 of 4)**

JA Name: MOCA ASIAN BISTRO

Loc. 1 of 1**(9) TELECHECK RATES, SERVICE FEES, AND SET UP INFORMATION (Cont'd)**Your Head Office /  
Bill To Name: KANG YUE USA CORPFirst/Last  
Contact Name: JOHNSON CHENPhone  
Number: (718) 268-3333Address:  
107-18 70 ROAD

Suite #

City:  
FOREST HILLSState:  
NYZip:  
11375Your Fax  
Phone: (718) 268-3332☒ TeleCheck Auto Settle Time: \_\_\_\_\_ hh ET (Must be at least 1 hour after Card Auto Settle Time)

Funding Report: ☐ Bill To ☒ Location Delivery Method: ☐ E-Mail ☐ Fax ☐ US Mail Frequency: ☐ \$ \_\_\_\_\_ Monthly ☐ \$ \_\_\_\_\_ Weekly ☐ \$ \_\_\_\_\_ Daily

Contact Name: \_\_\_\_\_ Contact Telephone #: \_\_\_\_\_

Report Fax #: \_\_\_\_\_ Report E-Mail Address: \_\_\_\_\_

Batch Closing Options: ☐ AM ☒ PM Must close by 11:30 PM CST Format: ☐ CSV (E-Mail only) ☐ PDF

Funding: ☐ Per Bill To ☒ Per LocationFund By: ☐ Product ☐ Terminal ☐ Location ☐ Agent ☐ Batch ☐ DayACH Credits to TeleCheck  
by Subscriber (For Invoice Payment):

ABA Transit #: \_\_\_\_\_

Account #: \_\_\_\_\_

☒ CkDebits / Credits (Settlement) to Subscriber  
by TeleCheck and/or Franking Information:☒ Same as above or☒ Same as above or

ABA Transit #: \_\_\_\_\_

Account #: \_\_\_\_\_

☒ Ck

Special Instructions which are part of this Agreement: \_\_\_\_\_

Please note on separate funding check or bank letterhead the designated TeleCheck Service. A separate funding check or bank letterhead/logo for TeleCheck Services is NOT required UNLESS Merchant will be using different banking account(s) for TeleCheck Services.

**(10) TRS SERVICES AND RECOVERY RATE**☐ ECA Verification with TRS

% of Item Amt. Recovered Retained by TRS: 10%  
Amt. of Return Item Fee Retained by TRS: 100%

☐ TRS for Warranty (Non-Compliance Items)

% of Item Amt. Recovered Retained by TRS: 20%  
Amt. of Return Item Fee Retained by TRS: 100%

☐ TRS Other (including Paper Verification)

% of Item Amt. Recovered Retained by TRS: 20%  
Amt. of Return Item Fee Retained by TRS: 100%

NOTE: Stop payment checks due to disputes over goods or services must be returned to Subscriber for resolution. Bank Auth: ☐ Yes ☒ No Remittance Frequency: Monthly

**(11) AGREEMENT APPROVAL**

The statements made in this Merchant Processing Application and Agreement are true. Client acknowledges having received and read a copy of the Interchange Schedule (for card processing services), Program Guide (which includes terms and conditions for each of the services, Operating Procedures, Third Party Agreements and a Confirmation Page), and Merchant Processing Application (consisting of Sections 1-13), as modified from time to time in accordance with the provisions of this Agreement and agrees to be bound by all provisions as printed therein. Client hereby consents to receiving commercial electronic mail messages from us from time to time. Client further agrees that Client will not accept more than 20% of its card transactions via mail, telephone or Internet order. However, if your Application is approved based upon contrary information stated in the Provide More Business Data section above, you are authorized to accept transactions in accordance with the percentages indicated in that Section. This signature page also serves as the signature page to the Equipment Lease Agreement and the American Express® Card Acceptance Agreement appearing in the Third Party Section of the Program Guide, if selected, the undersigned Client being the "Lessee" for purposes of such Equipment Lease Agreement and/or "You" and "Your" for the purposes of the American Express Card Acceptance Agreement.

By signing below, each of the undersigned authorizes us to request and obtain from a consumer reporting agency, personal and business consumer reports. If the Application is approved, each of the undersigned also authorizes us to obtain subsequent consumer reports in connection with the maintenance, updating, renewal or extension of the Agreement. Each of the undersigned furthermore agrees that all references, including banks and consumer reporting agencies, may release any and all personal and business credit financial information to us: It is our policy to obtain certain information in order to verify your identity while processing your account application.

THIS MERCHANT PROCESSING APPLICATION AND AGREEMENT HAS BEEN EXECUTED ON BEHALF OF AND BY THE AUTHORIZED MANAGEMENT OF CLIENT AS OF THE EFFECTIVE DATE.

Client's Business Principal: (Please sign below)

(PROCESSOR):

For First Data Merchant Services Corporation and  
Wells Fargo Bank N.A.

X Signature \_\_\_\_\_

X Signature \_\_\_\_\_

Print Name \_\_\_\_\_ JOHNSON CHEN

Date: 08/25/2008

Approved TeleCheck Manager

Date: \_\_\_\_\_

Title: ☒ Pres. ☐ V.P. ☐ Member L.L.C. ☐ Owner ☐ Partner☐ Other \_\_\_\_\_

Approved TRS Manager

Date: \_\_\_\_\_

IF TELECHECK SERVICES HAVE BEEN SELECTED, PLEASE SIGN BELOW:

X Signature \_\_\_\_\_

**(12) TELECHECK ACH AUTHORIZATION**

ACH Debit and Credit Authorization: Client authorizes its Financial Institution to pay and charge to its account by electronic fund transfer the amount due TeleCheck and/or TRS under this Agreement and to accept all credits and debits made to its account by electronic fund transfer as a result of TeleCheck's and/or TRS' services. This authorization shall remain in effect until thirty days after revoked in writing.

X Signature \_\_\_\_\_

Print Name / Title: \_\_\_\_\_

Date: \_\_\_\_\_

Authorized Signature on TeleCheck Account for ACH

RSAWT1104

**(13) PERSONAL GUARANTY**

RSAWTCorpFee1104

In exchange for First Data Merchant Services Corporation, Wells Fargo Bank N.A. and American Express' acceptance of, as applicable, the Agreement and/or the Equipment Lease Agreement and/or American Express Card Acceptance Agreement, the undersigned unconditionally guarantees performance of the Client's obligations under the foregoing Agreements, and payment of all sums due thereunder, and in the event of default, hereby waives notice of default and agrees to indemnify the other parties for any and all amounts due from Client under any of the foregoing Agreements. I understand that this is a Guaranty of payment and not of collection and that Wells Fargo Bank N.A., First Data Merchant Services Corporation and American Express, are relying upon this Guaranty in entering into, as applicable, the Agreement, the Equipment Lease Agreement and American Express Card Acceptance Agreement.

Signature (Please sign below):

Signature (Please sign below):

X \_\_\_\_\_, an individual X \_\_\_\_\_, an individual



## ABOUT MERCHANT'S BUSINESS

Bank Code: 959 Merchant ID: BuyPass Merchant #:   
☐ TR ☐ TU   
 DBA   
 NAME MOCA ASIAN BISTRO (24 characters)   
 Area #: 38 Group #: 01 Service By Region: 4000 District Code: ISR Rep ID: SIC # 5812   
 Check Assoc. Code: Current Check Vendor:

## CARD BANKING INFORMATION

First / Last   
 Contact Name: PEGGY CHAN Phone   
 Number: (718) 512-0910   
 ABA (Routing #) DDA (Account #)   
 026002927 50855600

## CHECKLIST INFORMATION

Regional Office Received Date: MCC: 5812 Merchant Type: 1000 RELM: RSA   
 Pricing Grid # RSA00053 ☐ Special Pricing Model ☐ Association Grid ☒ Linkback # 959000001 NRPT: 0.01% NCPT: 0.01%   
 Sales Support ID: JMAD Office Admin.: Card Rep. # CUT3 TeleCheck Rep. #   
 Print Sales Rep. Name: Jenny Ashley Initial: JA Sales Lead Tracking #: 1004327216   
 HIERARCHY: Bank: 959980002882 Agent: 959970002884   
 Corp.: Chain: BuyPass FIID:

## CLIENT VISITATION

☐ Visit Not Required (Lic. Professional)   
 1. Zone: ☒ Business District ☐ Industrial ☐ Residential   
 2. Location: ☐ Mall ☒ Shopping Area ☐ Isolated   
☐ Office ☐ Apartment ☐ Home   
☐ Other:   
 3. Seasonal: ☒ No ☐ Yes, Months in Operation: Months Open Between to   
 4. External Facility Description (# of Levels/Floors):   
☒ 1 ☐ 2-4 ☐ 5-10 ☐ 11 plus   
 5. Merchant Occupies: ☐ Ground Floor ☒ Other:   
 6. Remaining Floor(s) Occupied by:   
☐ Residential ☐ Commercial ☐ Combination   
 7. Advertising Name Displayed:   
☐ Window ☐ Door ☒ Store Front   
 8. Approximate Square Footage:   
☐ 0-250 ☐ 251-500 ☒ 501-2,000 ☐ 2,001 plus   
 9. # of Registers: 1   
 10. Return Policy: ☐ Full Refund ☐ Exchange Only ☒ None   
 11. Do you have a refund policy for your MC / Visa / Discover®   
 Network / American Express® sales? ☐ Yes ☒ No   
 If yes, Check one: ☐ Exchange ☐ Store Credit ☐ Refund Cardholder   
 If MC / Visa / Discover Network / American Express Credit,   
 within how many days do you submit credit transactions?   
☐ 0-3 ☐ 4-7 ☐ 8-14 ☐ Over 14 days   
 12. Merchant's E-Mail Address: (required for IP or TeleCheck TRS)   
 13. Proper License Visible (Liquor, Tax ID, etc.): ☒ Yes   
☐ No, explain:   
 14. Your Previous Processor:   
 15. Your Previous Merchant Number:   
 16. Check Reason for Changing:   
☐ Rate ☐ Service ☐ Terminated ☐ Other:   
 17. Do You Have Previous Processor MC/Visa/Discover   
 Network/American Express Statements?   
☐ Yes ☒ No   
 18. Are customers required to leave a deposit?   
☐ Yes ☒ No If Yes, % of deposit required: %   
 Time Frame for Delivery: Days

Comments to Credit Officer / Other Depository / Primary Savings Account Number and Additional Information (40 Characters):

## MAIL CARD STATEMENTS / DOCUMENTS

Statement Recap Information: (circle one) ☒ 01 = Outlet ☐ 02 = Stmt to Bill To/No Recap ☐ 07 = Suppress Stmt (No Stmt) ☐ 08 = Produce Recap, No Stmt   
☐ 09 = Bill to Address / Stmt and Recap ☐ 10 = Recap to Bill To/Stmt to Outlet   
 Statement Type: (check one) ☐ Detail ☒ Summary Statement Delivery Method: (check one) ☐ E-mail ☐ Online ☒ Print and Mail   
 Statement E-mail Address:

Head Office/   
 Bill To Name: KANG YUE USA CORP First/Last   
 Contact Name: JOHNSON CHEN   
 Address: 107-18 70 ROAD City: FOREST HILLS State: NY Zip: 11375 Phone #: (718) 268-3333

ON YOUR BUSINESS ACCOUNT   
 CHECKING STATEMENT ROLLUP: (circle one) ☐ 0 = Each Transfer ☒ 1 = Debit/Credit Grouped (By Category) ☐ 2 = Net Transfer Amount Only ☐ 3 = Net Transfer EOM Fee Combined

## CARD PROCESSING INFORMATION

RSAWT1104

1. Processing mode: ☒ EDC: ☐ Paper Voice ☐ Tape ☐ ECR ☐ Paper Terminal   
 2. Funding will be processed DAILY via: ☒ ACH ☐ Bankwire   
 3. Bank will fund: ☒ Outlet ☐ Head Office   
 4. # of Plates: Long Short   
 5. Fire Safety Act: ☒ Yes ☐ No   
 6. Ship Equipment and Welcome Packet to (check one): ☒ Outlet ☐ Head Office ☐ Other, give mailing information below ☐ No Welcome Packet and Supplies ☐ No Welcome Packet

Name: First/Last   
 Contact Name:   
 Address: City: State: Zip:

7. Debit Bill Payment Transaction Type: ☐ Internet ☐ VRU ☐ Recurring ☐ Call Center Sponsoring Debit Network: ☒ NYCE ☒ Pulse ☒ Star   
 8. Additional Terminal Features: (Check all that apply to ensure timely terminal programming)

☒ Auto Settle Time 01:30 hh ET (military) ☐ QSR-CR/SMT ☐ Retail With Tip ☐ Amex Prepaid Program   
☐ Bar Tab (Convenience/Small Ticket) ☐ Ship Method Preference (Choose One)   
☐ Clerk / Server Entry ☐ QSR Print Option (Overnight) ☐ Partial Auth Key Password   
☐ Debit Cash Back ☐ Invoice Number ☐ Tip % Option ☐ Balance Back Credits ☐   
 Delayed Ship Date: ☐ Multi-Trans (PC/Register/Software Only) ☐ Verify Amount Prompt ☐ Forces ☐   
☐ Dial Prefix ☐ Dial 9 ☐ Other: ☐ No Server/Ticket ID ☐ Partial Approval PINPad: ☐   
☐ Dial Suffix: ☐ Remove Room # Prompt ☐ Purchase w/ Balance Return ☐ DES Encryption Bal/Settle ☐   
☐ E-Commerce ☐ Remove Ticket # Prompt ☐ Standalone ☐ Access Code ☐ DUKPT Reports ☐   
☐ If IP (List Current Provider) ☐ Retail Gas ☐ Balance Inquiry # ☐ Tip Adjustment ☐   
 Comments:   
 (NOTE: Completing the Comments field will result in a 48 hour terminal programming delay)

**MERCHANT PROCESSING CREDIT ADDENDUM**Client's DBA Name: MOCA ASIAN BISTRO**OTHER ENCLOSURES (Check)**

1. Financial Statements (2 years most recent) required for: ☐ Low to Moderate Risk \$3MM or greater  
☐ Mail/Telephone Order \$1MM or greater and exceeding percentage requirements  
☐ Business to Business \$1MM or greater  
☐ Internet \$1MM or greater
2. Method of Advertising: ☐ Catalog ☐ Brochure/Direct Mail ☐ TV/Radio ☐ Internet  
 (Attach at least one) ☐ Phone ☐ Newspaper/Journal ☐ Other (specify) \_\_\_\_\_
3. Brochures / Marketing Materials / Advertisement required for: ☐ Mail/Telephone Order (exceeds percentage requirement)  
☐ Business to Business (exceeds percentage requirement)
4. Internet (Required): ☐ Web Page Attached - OR -  
☐ List Web Site Address: \_\_\_\_\_
5. Other: ☐ \_\_\_\_\_

**BUSINESS PREMISES**Are Your Business Premises: ☒ Owned ☐ Rented If rented, please complete the following: Renting Since: \_\_\_\_\_ Lease Expires: \_\_\_\_\_

Landlord Name: \_\_\_\_\_ First / Last Contact Name: \_\_\_\_\_ Phone: \_\_\_\_\_

**SUPPLIER REFERENCES**☐ Low to Moderate Risk \$3MM or greater ☐ Business to Business ☐ High Risk ☐ Tier II

1. Business Name:	Product/Service Purchased:			
Contact/ Account #:	Phone:	City:	State:	Zip:
2. Business Name:	Product/Service Purchased:			
Contact/ Account #:	Phone:	City:	State:	Zip:
3. Business Name:	Product/Service Purchased:			
Contact/ Account #:	Phone:	City:	State:	Zip:

**MAIL / TELEPHONE ORDER / BUSINESS TO BUSINESS / INTERNET INFORMATION** RSAWTSC1104  
**(All Questions Must Be Answered)**

1. What % of total sales represent business to business (vs. business to consumer)? Business to Business \_\_\_\_\_ 0 \_\_\_\_\_ % + Business to Consumer \_\_\_\_\_ 100 \_\_\_\_\_ % = 100% (total sales)
2. What % of bankcard sales represent business to business (vs. business to consumer)? Business to Business \_\_\_\_\_ 0 \_\_\_\_\_ % + Business to Consumer \_\_\_\_\_ 0 \_\_\_\_\_ % = 100% (bankcard sales)
3. Time frame from transaction to delivery:  
 % of orders delivered in: 0-7 days \_\_\_\_\_ 0 \_\_\_\_\_ % + 8-14 days \_\_\_\_\_ 0 \_\_\_\_\_ % + 15-30 days \_\_\_\_\_ 0 \_\_\_\_\_ % + over 30 days \_\_\_\_\_ 0 \_\_\_\_\_ % = 100%
4. MC / Visa / Discover® Network / American Express® sales are deposited (check one): ☐ Date of order ☐ Date of delivery ☐ Other (specify): \_\_\_\_\_
5. Who performs product/service fulfillment? Direct \_\_\_\_\_ X \_\_\_\_\_ ? Vendor \_\_\_\_\_ ? If Vendor, add name, address, phone. ☐ Other (specify): \_\_\_\_\_

Describe how the transaction works, from order taking to merchant fulfillment (attach add'l sheet, if necessary): \_\_\_\_\_

6. Does any of your cardholder billing involve automatic renewals or recurring transactions (i.e., cardholder authorizes initial sale only)?
- ☐
- Yes
- ☒
- No

Comments: \_\_\_\_\_